

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

United States Courts
Southern District of Texas
FILED

JUN 05 2019

David J. Bradley, Clerk of Court

UNITED STATES DISTRICT COURT

for the

District of _____

Division _____

Case No. _____

(to be filled in by the Clerk's Office)

Joshua Twohig

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

The State of Texas "See attached"

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name Joshua Towhig
 All other names by which
 you have been known: Joshua Anthony Towhig
 ID Number SPN 02590580; TDCJ# 02737193
 Current Institution Harris County Sheriff's Office Jail
 Address 1200 Baker St
Houston Texas 77002
 City State Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name The State of Texas
 Job or Title (*if known*) _____
 Shield Number _____
 Employer _____
 Address 1100 Congress Ave
Austin Texas 78701
 City State Zip Code
☒ Individual capacity ☒ Official capacity

Defendant No. 2

Name Texas Department of Criminal Justice, A.K.A. Texas -
~~Job or Title (*if known*)~~ Correctional Industries
 Shield Number _____
 Employer _____
 Address P.O. Box 4013
Huntsville Texas 77342
 City State Zip Code
☒ Individual capacity ☒ Official capacity

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Defendant No. 3

Name

Harris County, Texas

Job or Title (if known)

Shield Number

Employer

C/O Marilyn Burgess Harris County District Clerk

Address

201 Caroline, Houston,Houston

City

Texas

State

Zip Code



Individual capacity



Official capacity

Defendant No. 4

Name

Texas Department of Law enforcement, including The federal-~~Job or Title (if known)~~Bureau of Investigations

Shield Number

Employer

Address

(unknown), 1 Justice Park DriveHouston

City

Texas

State

7

Zip Code



Individual capacity



Official capacity

(see Attached)

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

Federal officials (a *Bivens* claim)

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

See attached

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

see attached

Joshua Twigg
vs

Case No. _____

The State of Texas

Defendant No 5

Name Harris County Constables office (Two unknown officers)
Shield Number UNKNOWN Number
Employer Harris County, Texas / Constables office
address (unknown) 102 SAN JACINTO, Houston, Texas 77002
☒ Individual Capacity ☒ Official Capacity

Defendant NO. 6

Name Harris County SHERIFF'S OFFICE JAIL (Seven unknown officers)
Shield Number 1; (unknown), (unknown), (unknown), (unknown), (unknown), (145306)
Employer Harris County, Texas / SHERIFF'S Department
address 1200 Baker St. Houston, Texas 77002 / 701 N. San Jacinto Houston-
Texas 77002
☒ Individual Capacity ☒ Official Capacity

Joshua Twobig

vs

The State of Texas

Case No. _____

No.
Claim # 1

The State of Texas - Has brought frivolous and Malicious charges against Plaintiff.

Has denied freedom of Speech.

Failed in its Judicial process to protect plaintiff from unjust injury.

Created a hostile environment.

Provided ineffective assistance of Counsel.

Failed to protect plaintiff's status as economically disadvantaged minority.

Failed to provide a communication portal that has access to the World Wide Web, for the incarcerated

No.
Claim # 2

Texas Department of Criminal Justice, Also known as Texas Correctional Industries. - failed to establish a wage; to ^{equal} federal minimum wage; and provide an Occupational Safety Health Administration approved working conditions, (to forced Labor Workers)

Plaintiff was subjected to unhumane living conditions.

Plaintiff was subjected to cruel and unusual punishment I. E.

Physical abuse - administered from Detention officers and Prison Officers.

Denied my freedom of religion and right to practice

Used illegal search and Seizure of Plaintiff's legal and personal papers.

Medical Malpractice thru U.T.M.B. the States Health provider

Complaint for violation of civil rights

Joshua Twong

vs

Cause No. _____

The State of Texas

CLAIM #3

• Harris County, Texas - Due to process of incarceration denied plaintives access to registered Polling location to vote in elections.
Violated plaintives freedom of speech.

Violated plaintives due process by means of Indictment.

Denied plaintive a fair and reasonable bond.

Denied Plaintives right to a fair and speedy trial

Subjected to unhumane living conditions.

Subjected plaintive to cruel and unusual punishment I.E.

Physical abuse administered by detention, and Sheriff officers, and Health care officers.

Denied my request to view my individual health records

Denied my freedom of religion and right to practice in its County Jail by not providing sanctuary or religious items.

Sequestered plaintive from court proceedings and denied access to courts and court personell.

Failed to establish communication portals for "Americans with Disabilities act" I.E. Voice over Internet Protocol.

CLAIM #4

• Texas Department of Law enforcement, including: The Federal Bureau of Investigations.

Subjected Plaintive to discrimination, Physical and mental abuse.

Violated my individual Privacy by illegal search and Seizure of Plaintives Social Media accounts.

Complaint for violation of civil rights

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Cause No. _____

VS

The State of Texas

Denied Plaintiff's request to review personal medical and mental health records.

Failed in its grievance remedies to protect Plaintiff from pre-judice, discrimination, and unjust injury.

Used illegal Search and Seizure at time of arrest.

Failed to inform Plaintiff of his rights.

Failed in request to investigate The Texas Prison and Jails Standards Commission.

CLAIM #^{NO.}5

Harris County Constable's officer Shulds) unknown illegally search and seized items listed in petition, in violation of 4th Amendment

Claim #^{NO.}6

Harris County SHERIFF'S Office JAIL.

for multiple years plaintiff has been subjected to inhumane living conditions.

Numerous officer on inmate assaults resulting in hospitalization and major injuries included in Section V.

forced into isolation as punishment in a Tuberculosis exposure cell; with out previous exposure.

Has denied my access numerous times to district, state, and federal courts, court personell, and Clerks of Court,

Subjected Plaintiff to cruel and unusual punishment.

Office of Inspector General has failed returning a satisfactory resolution. Nor have they granted full access to law library or Paralegals.

Section VI. Relief

Joshua Thwing

Cause no. _____

vs.
The State of Texas

- ~~Supena~~/Order medical and mental health records from U.T.M.B.; Bentanc, The Harris center, MHMZA.; The Harris County Jail; Social Security Administration as Evidence in discovery Material
 - ~~Supena~~/order All records pertaining to grievances from The Harris County Sheriff's department, Office of Inspector General; Texas Department of Corrections.
 - Order video surveillance footage as evidence from facilities.
 - Order Discovery.
 - Order/supena County and State facilities to provide online portal to access Harris County District Clerk's central filing system and The U.S. District filing system at Pacer.Gov.
 - Order a protection order barring detention officers from use of bags or mechanical restraints that cause injury.
 - Order/supena all documents and footage which involved use of force against Plaintiff.
 - appropriate/order ~~an~~ an independent medical examiner to interview Plaintiff and review facility's documents; for purpose of expert witness
 - Order all booking photos and reports from Harris County Jail; Houston City Jail; Texas Department of Criminal Justice, TDCJ.
 - Order Harris County Sheriff to allow Plaintiff a minimum 20 hours a week, unrestricted access to its facility's Law library and Para legal.
 - Order an independent review of jail and prison conditions
 - Order O.S.H.A. workers complaint audit
- complaint for violation of Civil Rights

Attached.

Case No. _____

Section VI. Relief.

Joshua Twining
vs The State of Texas

- Order an established Wage for inmates and prisoners to pay ~~state~~ debts, child support; and fees, (equal to federal minimum wage)
- Amend the 13th Amendment.
- (See Attached Petition Alleging: [OTHER CIVIL REQUEST FOR CITATION])

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- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

Defendant #1 has enacted statutes or ordinances. Defendant #2 has used superior jurisdiction as a tool for official oppression. Defendant #3 has enacted statutes or ordinances. Defendant #4 has superseded its jurisdiction and failed to address complaints and to protect civil rights of Plaintiff. Defendant #5 violated the 4th and 5th constitutional Amendments when illegally searching and seizing property. Defendant #6 violated constitutional Amendments by illegal seizure and cruel and unusual punishment by Police.

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☒ Pretrial detainee
☐ Civilly committed detainee
☐ Immigration detainee
☒ Convicted and sentenced state prisoner
☐ Convicted and sentenced federal prisoner
☐ Other (explain) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.
 Plaintiff was arrested in beginning of September, 2018 in Houston, Texas by The Harris County Constable's office. Plaintiff was also arrested November 22nd, 2011, and May 5th, 2015, in Harris County district.
- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.
 Between the years of 2011-2019, institutions include: Harris County Jail; Harris County Jail Annex, Garza West TDCJ, O.L. Luther unit TDCJ, East Ham unit TDCJ, Wynee unit TDCJ, The Walls unit TDCJ, Houston City Jail, Estell unit TDCJ, Byrd unit TDCJ, Holiday unit TDCJ, U.T.M.B. John Peiky TDCJ.

C. What date and approximate time did the events giving rise to your claim(s) occur?

The dates vary due to the length of incarceration. Last known major Grievance February 2nd 2019. Length of incarceration in Jail 11/22/2011 - 9/17/14; 5/5/2015 - 12/24/2015
TDCJ incarceration 12/25/2015 - 07/27/2017 Jail incarceration 9/14/2018 - Present.

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

Most of My complaints have been addressed to the office of inspector General. They have failed to respond to my request for documentation. The Harris County Sheriff's internal affairs division is on Notice as well as Houston Police Department. The State Bar of Texas has received a Complaint from Plaintiff. State commission on Judicial Misconduct is on notice. These facts are additional to the underlying claims in Attached Section II (a)(b)(c)

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Fractured orbital socket, split lip, abdominal swelling, cut heel, cut wrist, concussion, chipped teeth, Bruised eye, Swollen testicals, deviated septum, T.B. Exposure, Broken femur, lacerations, fractured nose, P.I.S.D.

Various Treatments were unsatisfactory and contrary to health. Facilities include The Harris Center, Ben Tamm medical Emergency, Mental Health and mental Retardation Authority. Houston Fire and EMS services

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims. • I request a bench hearing.

- I request court to appropriate funds to appoint a Private investigator to collect evidence for a Jury Trial.
- I request the court appropriate \$250,000.00 for legal fees and expenses; in hiring a Trial lawyer
- I request \$1,000,000.00 in damages from injury and, loss of life and Liberty (see Attached.)

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s). Harris County Jail; Houston City Jail; Garza West TDC; O.L. Luther unit TDC; East Ham unit TDC; Wynne unit TDC; The Walls unit TDC; Harris County Jail Annex; Estell unit TDC; Byrd unit TDC; Holding unit TDC; U.T.M.B. University of Texas Medical Branch, medical unit John C. Galy TDC.

- B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☒ No

☐ Do not know

- C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes

☒ No

☐ Do not know

If yes, which claim(s)?

Officer oppression by officers. Cruel and unusual punishment.

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- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☒ No

- E. If you did file a grievance:

1. Where did you file the grievance?

listed in section IV (B)

-
2. What did you claim in your grievance?

Listed in Section II (A)(B)(C)

-
3. What was the result, if any?

NA

-
4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

Petition for Remedy

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F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any: Dr. Beckham. I reported abuse. Her response was "she did not believe I was abused."

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. Due to theft from prisoners and facility staff. I have been unable to keep legal documents on my person. That's why I've requested the orders

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☒ Yes

☐ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

Civil Action No. H-18-4194 U.S.D.C.

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- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court (if federal court, name the district; if state court, name the county and State)

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

Yes

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing:

May 23rd, 2019

Signature of Plaintiff

Joshua Twohig

Printed Name of Plaintiff

Joshua Twohig

Prison Identification #

SP# 02590580 TDC# 02737193

Prison Address

1200 Baker StHouston

City

Texas

State

77002

Zip Code

B. For Attorneys

Date of signing:

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address

Exhibit

HEARING AND DETERMINATION REPORT

2A2A01N

Case# 2019-25950

Committee Copy

Inmates Name (Last, First, Middle)

SPN#

Date of Report

Date of Hearing

TWOHIG

JOSHUA ANTHONY

2590580

5/14/2019

5/21/2019

Synopsis of Inmate Statement (As recorded by a Disciplinary Committee Member)

DO Rhem 132534-has advised us of your refusal to appear in Disciplinary Court. Due to your refusal to participate in the Disciplinary Court proceedings your Due Process hearing was held in absentia by the Disciplinary Committee.

Hearing determination based upon statements and/or report.

Evidence Factor(s)

OFFENSE

Inmate Plea

Committee Finding

1105 FIGHTING

NG

G

Incident Type:

Sanction:

Major

15 days loss of visitation and commissary privileges

Additional Information

Sanctions for this offense will run: Consecutive - Day for day

15 total days to serve for this case

You have the right to appeal this Disciplinary Sanction. See the attachment for an explanation of the ranges of sanctions and notice of appeal.

Note- Disciplinary Separation time is accompanied by Loss of Commissary and/or Visitation Privileges for the specified period.

Disciplinary Committee Member

Detention Officer

J. Calacat

Senior Hearing Officer

Sergeant

L. Warburton